

DATE: December 15, 2014

TO: Alex Dambach, Division Chief
Department of Planning and Zoning

FROM: Nathan Randall, Planner
Department of Planning and Zoning

SUBJECT: Special Use Permit #2014-0119
Administrative Review for Change of Ownership
Site Use: Restaurant
Applicant: 1106 Steak LLC
Location: 1106 King Street
Zone: KR / King Street Retail

Request

Special Use Permit #2014-0119 is a request to change ownership of an approved restaurant, previously known as Notting Hill, from Notting Hill Restaurant & Bar LLC to 1106 Steak LLC. No changes to the existing SUP conditions are proposed. The applicant expects to operate the restaurant with an American steakhouse and small-plates concept but has not yet decided on the trade name for the business.

Background

A restaurant has operated at this location since 1985. Le Gaulois, a French restaurant, operated here for many years until it closed in 2009. Although actively marketed as a potential restaurant use, the space remained vacant until approximately December 2012, when Notting Hill Restaurant opened following administrative approval of a change of ownership (SUP#2012-0068).

In early 2013, City staff observed both BAR-related and Code-related violations at the new restaurant. In May 2013, Planning & Zoning staff received complaints about loud music coming from the business. Upon inspection, staff found evidence of noise, parking and several other violations of the Special Use Permit conditions. The restaurant owner corrected some of these violations promptly, while other violations continued and necessitated the issuance of tickets with monetary fines. The owner also attempted to address certain violations by applying for amendments to his existing Special Use Permit.

SUP#2013-0074, the most recent SUP at the site, was a request to entirely eliminate the off-street parking requirement for the use (Condition #7), to allow outdoor live entertainment, to allow outdoor loudspeakers, and to allow after-the-fact approval of a bar that the owner had installed without permits in the outdoor dining area. In December 2013, City Council approved the SUP only for a reduction in the number of parking spaces required from 33 down to 15. It did not entirely eliminate the off-street parking condition, as requested, and also denied the music-related and outdoor bar requests.

Following approval of SUP#2013-0074, staff issued two notices of violations in April 2014 to the owner of Notting Hill for several SUP violations, including his not providing the required number of off-street parking spaces and not removing loudspeakers and the outdoor bar as required in newly-included Conditions #42 and #43 of SUP#2013-0074. Although the loudspeakers were eventually removed, other SUP violations were not corrected by early June 2014, when Notting Hill permanently closed for business.

The applicant for this change of ownership request has operated a restaurant since late 2003 that is known as Al La Lucia at 315 Madison Street in North Old Town. Staff has not observed any SUP violations at that restaurant in the last 11 years. The applicant plans to continue operating that use at that location separate from the current proposal.

Parking

The subject property is located within the Central Business District (CBD). Restaurants located within the CBD are exempt from parking requirements pursuant to Section 8-300(B) of the Zoning Ordinance. However, Condition #7 of the existing SUP, which was modified one year ago in SUP#2013-0074 and has been carried forward into the current request, requires the applicant to obtain 15 off-street parking spaces for the use.

Community Outreach

Public notice was provided through eNews, via the City's website, and by posting a placard on the site. In addition, the Old Town Civic Association, Old Town Business and Professional Association, Upper King Street Neighborhood Association, and King Henry Court Condominium Association were sent an e-mail with information about the current application. Staff has not received any comments from the public regarding this request.

Staff Action

Staff supports the change of ownership and notes that this request will allow for the opening of a new, locally-owned restaurant in this currently vacant tenant space in Old Town. Staff has discussed the existing SUP conditions, as well as the violations that occurred at the site in 2013 under prior ownership, with the new owner. He understands the existing conditions and the importance of adhering to them, as evidenced by the operation of his existing business for 11 years with no SUP violations.

Securing off-street parking has been an important consideration in the current request. Following conversations with staff and the Alexandria Economic Development Partnership (AEDP), the applicant has found 15 off-street parking spaces at the Coal Yard property at 205 South Henry Street, located about a block-and-a-half south of the site. Previous restaurant owners have also used this site to fulfill the SUP parking requirement in the past, and staff continues to believe it is an acceptable solution to fulfilling the off-street parking requirement in Condition #7.

Existing SUP conditions have been carried forward into this request with three changes. Condition #42 requiring the removal of loudspeakers has been satisfied and deleted. Given staff's confirmation that the outdoor bar has been removed, staff has deleted Condition #43. Condition #22 has also been amended to eliminate the automatic one-year review before Planning Commission and City Council and to return the review requirement to the standard one-

year review language included in all SUPs. The purpose of the stricter language as approved in SUP#2013-0074 was to provide assurance to the Planning Commission and City Council that the prior owner was not continuing to operate out of compliance with other SUP conditions. Staff does not believe such language is necessary now that the prior restaurant has closed and new ownership is proposed.

Staff hereby approves the Special Use Permit request.

ADMINISTRATIVE ACTION - DEPARTMENT OF PLANNING AND ZONING:

Date: 12/15/2014
Action: Approved

Alex Dambach, Division Chief

Attachments: 1) Special Use Permit Conditions
2) Statement of Consent

CONDITIONS OF SPECIAL USE PERMIT #2014-0119

The new owner is responsible for ensuring that the following conditions are adhered to at all times. Violation of any of the conditions may result in fines and/or referral to public hearing by the Planning Commission and City Council.

1. The Special Use Permit shall be granted to the applicant only or to any corporation in which the applicant has a controlling interest. (P&Z) (SUP #1817)
2. Seating shall be provided inside for no more than 108 patrons. (P&Z) (SUP #96-0020)
3. Outside dining facilities shall be provided for no more than 45 patrons on the patio to the west of the building. Additional outdoor dining seats may be provided in front of the restaurant subject to the review and approval of the Director of Planning & Zoning through the King Street Outdoor Dining program. (P&Z) (SUP#2012-0068)
4. Hours of operation shall be limited to between 7 a.m. – 1 a.m. daily. For indoor seating, meals ordered before 1 a.m. may be served, but no new patrons may be admitted and no new alcoholic beverages may be served after 1 a.m., and all patrons must leave by 2 a.m. (P&Z) (SUP#2013-0074)
5. Trash and garbage shall be stored inside or in dumpsters which are fully enclosed within a refrigerated storage container at the rear of the property. Trash and garbage shall only be removed from the storage container for the purposes of collection and cleaning. (King Henry Court Owners Association) (SUP #96-0020)
6. Condition deleted. (SUP #96-0020)
7. The applicant shall provide a minimum of 15 off-street parking spaces primarily for restaurant employees, to the satisfaction of the Director of Planning and Zoning. The applicant shall also provide and maintain a written agreement for the 15 off-street parking spaces to the satisfaction of the Directors of Planning & Zoning and Transportation & Environmental Services. (P&Z) (PC) (SUP#2013-0074)
8. There will be no through vehicular traffic via the alley from Fayette Street. (PC) (SUP #1817)
9. Condition deleted by staff. (P&Z) (SUP #2006-0107)
10. Live entertainment shall be permitted only to provide background ambient music to restaurant patrons during the hours of 9:00am to 1:00am. Live entertainment shall be limited to inside the restaurant building only, and shall not be permitted in any outdoor seating area. Advertising that features entertainment as a destination is prohibited. No admission or cover fee shall be charged. (PC)(P&Z) (SUP#2013-0074)

11. The hours of operation for the outdoor dining area shall be limited to 11:30 A.M. to 10:00 P.M. Sunday through Thursday, and limited to 11:30 A.M. to 11:00 P.M. Friday and Saturday. No meals may be served in the outdoor patio area after 9:30 P.M. Sunday through Thursday and after 10:30 P.M. Friday and Saturday and the patio shall be closed and cleaned by 10:00 P.M. Sunday through Thursday and 11:00 P.M. Friday and Saturday. (P&Z) (PC) (SUP#2012-0068)
12. The applicant shall post the hours of operation at the entrance to the restaurant. (P&Z) (SUP #96-0020)
13. Alcoholic beverages may be sold for on-premises consumption only. (P&Z) (SUP #96-0020)
14. No food, beverages, or other material shall be stored outside. (P&Z) (SUP #96-0020)
15. Litter on the site and on public rights-of-way and spaces adjacent to or within 75 feet of the premises shall be picked up at least twice a day and at the close of business, and more often if necessary, to prevent an unsightly or unsanitary accumulation, on each day that the business is open to the public. (P&Z) (T&ES) (SUP #96-0020)
16. Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys or storm sewers. (T&ES) (SUP #96-0020)
17. All loudspeakers shall be prohibited from the exterior of the building, and no music or amplified sound shall be audible at the property line. (T&ES) (SUP#2013-0074)
18. Condition deleted by staff. (P&Z) (SUP #2006-0107)
19. Condition deleted. (City Council) (SUP#2002-0079)
20. The applicant shall (a) advertise the availability of off-street parking by including such notice in any advertising; (b) urge patrons who drive to use the space; and (c) post signs at the restaurant directing patrons to the availability of such parking. (P&Z) (SUP #96-0020)
21. Condition deleted by staff. (P&Z) (SUP #2006-0107)
22. **CONDITION AMENDED BY STAFF:** The Director of Planning and Zoning shall review the Special Use Permit one year after the use becomes operational and shall docket the matter for consideration by the Planning Commission and City Council if: (a) there have been documented violations of the permit conditions which were not corrected immediately, constitute repeat violations or which create a direct and immediate adverse zoning impact on the surrounding community; (b) the Director has received a request from any person to docket the permit for review as a result of a complaint that rises to the level of a violation of the permit conditions, or (c) the Director has determined that there are problems with the operation of the use and that new or revised conditions are needed.

~~Staff shall automatically docket the Special use Permit for review one year from the final City Council hearing date. (P&Z) (SUP#2013-0074)~~

23. Condition deleted by staff. (P&Z) (SUP #2006-0107)
24. The wooden door shall be kept closed at all times while the outdoor dining area is open, except for purposes of taking deliveries during daylight hours. (King Henry Court Owners Association) (SUP #2006-0107)
25. The applicant shall control cooking odors, smoke, and any other air pollution from operations at the site and prevent them from leaving the property, or becoming a nuisance to neighboring properties, as determined by the Department of Transportation and Environmental Services. (T&ES) (SUP#2013-0074)
26. The applicant shall require its employees who drive to use off-street parking and/or provide employees who use mass transit with subsidized bus and rail fare media. The applicant shall also post DASH and Metrobus schedules on-site for employees. (P&Z) (T&ES) (SUP #2006-0107)
27. The applicant shall conduct employee training session on an ongoing basis, including as part of any employee orientation, to discuss all SUP provisions and requirements, and to provide instruction preventing underage sales of alcohol. (P&Z) (SUP#2004-0037)
28. The applicant shall submit a seating plan that accurately reflects the conditions at the site along with the proposed seating arrangement. (Code Enforcement) (SUP#2004-0037)
29. A clear, unobstructed path measuring no less than 44 inches is required to be maintained from the building exit, through the courtyard to the approved exits to the public way. The pathway shall remain clear of tables, chairs and planters at all times. The approved pathway shall be designated by the applicant and approved by the Director of Code Enforcement. (Code Enforcement) (SUP#2004-0037)
30. A secondary exit from the courtyard shall comply with the USBC, remain free of obstructions and be properly illuminated at all times. The aforementioned shall include the exit door, pathway to the alley, and the alley leading to the public way. (Code Enforcement) (SUP#2004-0037)
31. Front gates of the courtyard shall remain unlocked and held in the open position at all times the building is occupied. (Code Enforcement) (SUP#2004-0037)
32. Any encroachment from any other structure that impacts the courtyard, requires a new review of the courtyard seating shall be revisited for compliance with the USBC. (Code Enforcement) (SUP#2004-0037)
33. CONDITION DELETED BY STAFF (SUP#2012-0068)

34. CONDITION DELETED BY STAFF (SUP#2012-0068)
35. CONDITION DELETED BY STAFF (See Condition #4) (SUP#2013-0074)
36. CONDITION DELETED BY STAFF (SUP#2012-0068)
37. The applicant shall participate in any organized program to assist with both employee and customer parking for businesses that is formed as a result of suggested parking strategies in the King Street Retail Study. (P&Z) (SUP#2006-0107)
38. CONDITION DELETED BY STAFF (SUP#2013-0074)
39. Deliveries, loading, and unloading activities shall not occur between the hours of 11:00pm and 7:00am. (T&ES) (SUP#2008-0063)
40. No delivery of food or beverages to customers shall be offered from the restaurant. (P&Z) (SUP#2013-0074)
41. All waste products including but not limited to organic compounds (solvents), shall be disposed of in accordance with all local, state and federal ordinances or regulations. (T&ES) (SUP#2013-0074)
42. **CONDITION SATISFIED AND DELETED BY STAFF:** ~~The applicant shall completely remove the unapproved loudspeakers currently located on the side of the restaurant building within 60 days of the date of the final City Council hearing. (P&Z) (SUP#2013-0074)~~
43. **CONDITION SATISFIED AND DELETED BY STAFF:** ~~The applicant shall completely remove the unapproved outdoor bar, or reduce it in size such that it functions only as a service station to the satisfaction of the Director of Planning & Zoning, within 60 days of the date of the final City Council hearing. (P&Z)~~

STATEMENT OF CONSENT

The undersigned hereby agrees and consents to the attached conditions of this Special Use Permit #2014-0119. The undersigned also hereby agrees to obtain all applicable licenses and permits required for the restaurant at 1106 King Street.

Applicant - Signature

Date

Applicant – Printed

Date